

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

The disclosure of Applicant's application provides support for the amendments to the claims. For example, at least page 4, lines 27-29, of Applicant's specification provide support for the amendment to claim 16.

After amending the claims as set forth above, claims 16-31 are now pending in this application. Claims 20-23 have been withdrawn from consideration.

Rejections under 35 U.S.C. § 112

Claims 26 and 27 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. These rejections are respectfully traversed.

The Office argues on page 2 of the Office Action that claim 26 is indefinite because it omits essential structural cooperative relationships of elements. In particular, the Office argues on page 2 of the Office Action that claim 26 does not "clearly and positively recite any structural limitations which enable one to properly determine the structural engagement between the housing joint and the projections" (emphasis added).

Claim 26 recites "wherein the housing has a multi-part design, with a housing joint running in a direction transverse to a long axis of the positioning element, with the housing joint facing a surface of the positioning element which faces the housing." Claim 26 does not recite the projections, as argued by the Office. Instead, claim 26 recites a relationship between a housing joint and a surface of the positioning element. Thus, there is no need to

define a structural engagement between the housing joint and the projections, as argued by the Office.

Applicant notes that Figure 2 of Applicant's application illustrates an example of a housing 2 with a housing joint, which runs vertically between projections 12, according to one embodiment of the present invention. Figure 1 of Applicant's application illustrates an example of a housing 2 having a joint with the positioning element 7 in place. Thus, one of ordinary skill in the art would understand the meaning and scope of claim 26 in light of the disclosure of Applicant's application.

The Office argues on pages 2-3 of the Office Action that claim 27 is indefinite because it omits essential structural cooperative relationships of elements, particularly how an opening provided in the housing joint structurally engages the housing joint. Applicant notes that Figure 2 of Applicant's application illustrates an example of a housing 2 with a housing joint having an opening between projections 12, according to one embodiment of the present invention. Thus, one of ordinary skill in the art would understand the meaning and scope of claim 27 in light of the disclosure of Applicant's application.

Further, the Office has not provided an explanation of how such features argued by the Office on pages 2-3 of the Office Action are deemed essential.

As noted on page 2 of the Office Action, the Office's rejection is based on missing essential elements and MPEP § 2172.01 provides guidance on this rejection. MPEP § 2172.01, states that a "claim which omits matter disclosed to be essential to the invention as described in the specification or in other statements of record may be rejected" (emphasis added). MPEP § 2172.01 further states that, alternatively, there needs to be statements in the record that such elements are essential.

The disclosure of Applicant's application does not disclose that the features of claim 26 or 27 are essential. Nor does the disclosure of Applicant's application define such features as being essential elements. No such definition or disclosure of essential elements has been made and there is no statement on the record that supports this rejection.

As a result, the Office has not set forth a proper indefiniteness rejection for a lack of essential features.

Alternatively, the Office appears to argue that claims 26 and 27 are broad and do not include additional structural features to further define and limit the claim. However, the breadth of a claim is not to be equated with indefiniteness. See MPEP § 2173.04.

For at least the reasons discussed above, reconsideration and withdrawal of these rejections is respectfully requested.

Rejection under 35 U.S.C. § 103

Claims 16-19 and 24-31 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,981,737 to Welsh (hereafter “Welsh”) in view of U.S. Patent No. 4,468,054 to Orth (hereafter “Orth”) and WO 03/081113 to Müller *et al.* This rejection is respectfully traversed.

Applicant notes that U.S. Patent No. 7,475,916 is in the patent family of WO 03/081113 and appears to be an English language equivalent of WO 03/081113. Therefore, any further references to WO 03/081113 will instead be to U.S. Patent No. 7,475,916 (hereafter “Müller”). In addition, Applicant reserves the right to remove Welsh as prior art.

Welsh discloses a double plate heater pipe seal for a vehicle dash 14 that defines a boundary between an engine compartment 18 and a passenger compartment 20. See Welsh at col. 2, lines 36-42, and Figure 1. The device of Welsh further includes a first mounting plate 24 disposed in the passenger compartment 20 to compress a first noise ablating material 42 against the dash 14 and a second mounting plate 26 disposed in the engine compartment 18 to compress a second noise ablating material 44 against the engine side of the dash. See Welsh at col. 2, lines 42-60; col. 3, lines 48-52; and Figure 2. The first mounting plate 24 includes a fastener or stud 36 that extends outward to be received by a nut on an outboard surface of the second mounting plate. See Welsh at col. 2, lines 48-51, and Figure 2. Welsh teaches that this device reduces dash pass-through noise levels. See Welsh at col. 1, lines 6-9.

The Office argues on pages 3 and 8 of the Office Action that the second noise ablating material 44 (including its upright face 100) serves as a positioning element and the first mounting portion 24 serves as a housing and that the fastener 36 is a projection formed in a single piece with the first mounting portion 24.

Applicant notes that the Office notes reference numeral 18 on page 3 of the Office Action as being part of a housing, which is the engine compartment 18 of Welsh. However, it appears from the arguments on page 8 of the Office Action that Office is relying on the first mounting portion 24 of Welsh to provide a housing. The engine compartment 18, including the boundary for the engine compartment, and the first mounting portion 24 are not formed by a single piece.

The first mounting portion 24, which includes the projection 36, of Welsh is not a housing configured to house at least an evaporator of a motor vehicle air-conditioning system in the housing, wherein the housing includes projections formed in a single piece with the housing, as recited in claim 16. Claims 17-19 and 24-31 depend from claim 16.

As shown in Figure 2 of Welsh, the first mounting portion 24 is a relatively flat plate or piece that could not house at least an evaporator of a motor vehicle air-conditioning system in the first mounting portion 24.

The Office indicates on page 4 of the Office Action that Welsh does not disclose or suggest a positioning element that has a first set of two slots configured to receive the lines and a second set of slots, wherein the positioning element is a sheet-metal punched part, as recited in claim 16.

Orth discloses a flange mounted thermostatic expansion valve with tubes 66 inserted into a valve body, as shown in Figure 1 of Orth. However, Orth does not remedy the deficiencies of Welsh because Orth also does not disclose or suggest a housing configured to house at least an evaporator of a motor vehicle air-conditioning system in the housing, with the housing including projections formed in a single piece with the housing, as recited in claim 16.

Müller discloses a coupling device 100 for coupling of a liquid line 10 to a fluidic system 20. See abstract of Müller. Müller discloses a fluidic block 45 as a clamping device and a holding plate 24 on top of a chip body 24. See Müller at col. 8, lines 30-33, 45-48. Müller discloses that the fluidic block 45 and the holding plate 25 are connected via a bayonet connection and the holding plate 25 includes anchor pins 25.1 that project through lateral openings 45.2 of the fluidic block 45. See Müller at col. 9, lines 62-65, and col. 10, lines 23-25.

Müller does not remedy the deficiencies of Welsh and Orth because Müller also does not disclose or suggest a housing configured to house at least an evaporator of a motor vehicle air-conditioning system in the housing, with the housing including projections formed in a single piece with the housing, as recited in claim 16. For example, the holding plate 25 of Müller is a relatively flat plate and is not configured to house at least an evaporate of a motor vehicle air-conditioning system in the holding plate 25.

Further, it would not have been obvious to modify the device of Welsh and Orth by the teachings of Müller. The Office argues on pages 5-6 of the Office Action that it would have been obvious to modify the device of Welsh and Orth to include the anchor pins 25.1 and lateral openings 45.2 disclosed by Müller. However, one of ordinary skill in the art would not have made such a modification because it would have rendered the device of Welsh unsatisfactory for its intended purpose and would have changed the principle of operation of the device of Welsh. See MPEP § 2143.01, Parts V and VI.

In particular, one of ordinary skill in the art would have understood that modifying the device of Welsh so that the dash 14 included projections, similar to the anchor pins 25.1 of Müller, to fasten the second noise ablating material 44 and the second mounting plate 26 to the dash 14 instead of the fastener 36 would have rendered the first mounting plate 24 inoperable for compressing the first noise ablating material 42 against the dash 14. Without the compression of the first noise ablating material 42 against the dash 14, the noise reduction capabilities of the device of Welsh would have been diminished and the modification argued by the Office would render the device of Welsh unsatisfactory for its intended purpose and change its principle of operation. Alternatively, providing projections on the first mounting

plate 24 of Welsh would not provide a housing as recited in claim 16 because the dash 14 serves as a housing, as noted by the Office.

In addition, one of ordinary skill in the art would have understood that providing openings in the second noise ablating material 44 for projections would have required removal of a significant portion of the noise ablating material, which would diminish the capability of the noise ablating material 44 to reduce noise, which is the goal of the device of Welsh.

For at least these reasons, one of ordinary skill in the art would not have made the combination argued by the Office. Claims 16-19 and 24-31 are allowable. Reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Applicant submits that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

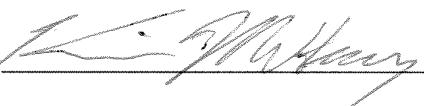
The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date May 6, 2011

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 295-4011
Facsimile: (202) 672-5399

By 

Matthew A. Smith
Attorney for Applicant
Registration No. 49,003

Kevin L. McHenry
Attorney for Applicant
Registration No. 62,582